



John "Jack" D. Wilenchik

**WILENCHIK & BARTNESS**

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----- A PROFESSIONAL CORPORATION -----

**ATTORNEYS AT LAW**

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November 16, 2016

**BY CERTIFIED MAIL  
AND EMAIL**

Federal Election Commission  
Office of Complaints Examination and  
Legal Administration  
Attn: Donna Rawls, Paralegal  
999 E. Street, NW  
Washington, DC 20436  
CELA@fec.gov

OFFICE OF GENERAL

NOV 22 PM 5:25

RECEIVED  
FEDERAL ELECTION  
COMMISSION

Re: MUR-7073

To Whom It May Concern:

Premier Radio Stations, LLC ("Premier"), by and through counsel undersigned, hereby responds to the Complaint filed with the Federal Elections Commission (FEC) on May 23, 2016, and to the letter from your office dated November 1, 2016.<sup>1</sup>

For the following reasons, no action should be taken against Premier in response to the Complaint.

First, the Complaint does not clearly identify Premier as a respondent, or allege a violation by Premier (of any kind, much less a violation of "a statute or regulation over which the Commission has jurisdiction"), as required by 11 C.F.R. § 111.4(d)(1). Rather, the Complaint was filed against "Meluskey for US Senate Committee," and it alleges that Mr. Alex Meluskey – who ran unsuccessfully as a candidate for the United States Senate in the Republican primary this summer – "failed to state his source of funds in self-financing his campaign and shows gross disregard for the FEC laws..."

Premier is an AM radio station operating under the call-sign, "KFNX 1100 AM." The Complaint does reference Premier obliquely, by alleging that "He [Mr. Meluskey] does weekly radio shows in the name of Fair Tax Group and has been using these shows

<sup>1</sup> Other than the November 1<sup>st</sup> letter and its attachments—which consisted of a Complaint filed with the FEC on May 23, 2016; a "Description of Preliminary Procedures..."; and a blank "Designation of Counsel Statement"—Premier has received no other documents from the FEC in reference to this matter.

1005471-14111



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for his campaign, however there has been no disclosure as to who pays for this radio time. Working with three different radio stations one hour each per week, there would appear to be a value in advertising that should be disclosed someplace.”

First, Premier is a “brokered” radio station that sells airtime for talk shows. It enters into contracts with the buyer(s) for each show, under which Premier is paid monthly, and at market rates, for the use of its airtime. On May 25, 2015, Mr. Meluskey purchased one hour on Saturdays at 4:00 p.m., as well as additional promotions and commercials for his show throughout the week, for the total of \$433.33 per month, month-to-month (as set forth in his contract with Premier, attached and incorporated herein). Mr. Meluskey has paid Premier under the contract since its inception. This is the same rate that other buyers (including non-political buyers) pay for Premier’s airtime on the weekend between 4pm and 8pm, and that Premier has offered and agreed to with other buyers in the past. In compliance with 47 U.S.C.A. § 315(b), it is Premier’s cheapest rate (i.e., it “does not exceed the charges made for comparable use of the station,” and it is the “the lowest unit charge of the station for the same class and amount of time for the same period” “during the forty-five days preceding the date of a primary”).

To the extent that the Complaint alleges violations of reporting requirements (under e.g. 52 U.S.C.A. § 30104 *et seq.*), Premier is of course not subject to such requirements, as it is not a political committee or candidate or otherwise affiliated with Mr. Meluskey.

While not specifically alleged by the Complaint, Premier is also not in violation of 52 U.S.C.A. § 30116, which provides that “no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$2,000...” Premier has made no contribution to Mr. Meluskey of any kind. Mr. Meluskey has always paid for his airtime in full, at market rates, and on a monthly basis. Finally, Premier takes no position as to whether Mr. Meluskey and/or his committee(s) have complied with any/all reporting requirements to which they may have been subject under federal or state law.



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If you have any other questions, then please do not hesitate to contact me at [jackw@wb-law.com](mailto:jackw@wb-law.com), or (602) 606-2810. A signed verification from Francis Battaglia, Premier's President, is also attached hereto.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Wilenchik', with a long horizontal flourish extending to the right.

John "Jack" D. Wilenchik, Esq.  
Arizona Bar License No. 029353

attachments:

Executed Broadcast Agreement between KFNX 1100 and  
Andrew Meluskey dated May 25, 2015

10024474-15MFL



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**VERIFICATION**

(28 U.S.C.A. § 1746)

I, Francis Battaglia, declare as follows:

I am the President of Premier Radio Stations, LLC, and am authorized to make this Verification on its behalf.

I have read the foregoing letter to the Federal Election Commission. The statements made therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16<sup>th</sup> of November, 2016.

A handwritten signature in black ink, appearing to read 'Francis Battaglia', written over a horizontal line. The signature is stylized and somewhat cursive.

By: Francis Battaglia

1005441-15100



2001 North 3rd Street Suite 102 Phoenix, AZ 85004  
Phone: (602) 377-1100 Fax: (602) 248-1478 www.1100kfnx.com

### BROADCAST AGREEMENT between KFNX 1100 and

**CONTACT:** Alexander Melusko  
**COMPANY NAME:** Virtuous Communications, I.L.C.  
**ADDRESS:** 26100 N 82nd Street  
**CITY/ST/ZIP:** Scottsdale, AZ. 85255  
**PHONE:** 609-575-8751  
**EMAIL:** alex@melusko.com  
giburton@libertypromotional.com

**SHOW AIRTIME:** Saturday 4:00pm-5:00pm  
**START DATE:** 06/06/2015  
**END DATE:** TFN

**RATE:** \$100.00 per show

**ALEX @ OPTIMUM GRAPHICS.COM**  
**SCHEDULE**

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1 Hr Show						1x	
:30 Commercial	1x	1x	1x	1x	1x	4x	1x
:15 Promo	2x	2x	2x	2x	2x	2x	2x

**TERMS OF THIS AGREEMENT:**

**PAYMENTS:** Client agrees to pay \$433.33 by 05/29/2015 as payment for the first month and agrees to pay \$433.33 monthly in advance thereafter. Should any subsequent payments not be made to fulfill this agreement, Client will be in default and subject to initial late fee of 5% and ongoing late fee of 10% monthly thereafter. KFNX will deliver default notice in written form by fax, mail or email.

**TERM:** The initial term of 1 month is non-cancelable. Each agreed upon term is deemed reserved and is not cancelable nor are payments refundable. Failure to make subsequent payments to complete the initial 1 month term will lead to late fees, collections and / or fees or similar action.

**CANCEL / RENEWAL:** Contract automatically renews unless cancelled or renegotiated in writing (via fax, mail or email) and then is converted to a month to month contract with a 2 week written notice by fax, mail or email to cancel this agreement and payments due up front based on Payment Terms in Payments section.

**CLIENT PROVISIONS:** Client will be present weekly (in person or via the phone) to host show to the best of their ability and provide content, and any guests, etc. In the event Client is absent a Guest Host will be provided by Client, or ample notice (1 business day) given to run a replay. If Client does not show or call, a previous show will automatically be (re)played. If Client delivers a pre-produced show, it needs to be delivered two (2) business days prior to show airing. If Client delivers pre-produced spots - they must be industry standard (:15, :30 or :60 seconds in length). \*If Client delivers a pre-produced show and there are any additional engineering cost / needs to carry the show, Client will be subject to those extra costs. Client will follow Station programming clock (includes national and local news, weather, etc.) for the broadcast. Client will respect the Station studio (keep clean, no food or alcohol) and Station employees.

**STATION PROVISIONS - PRODUCTION / PRODUCING:** Includes all start-up production costs to create show (show elements, promo, client commercial, training and host guide - up to one hour), one revision of show production (expect a week for changes to be finalized), one pre-tape, a board operator to run the program and answer phones, copy of each show (CD or MP3), and a listing on Station website in program schedule. Station will provide an over-the-air radio transmission and simulcast via Internet streaming (through Station website). \*\*Any additional producing or production needs will be subject to extra charge at an hourly rate of \$50. \*Remote Broadcasts may be requested, but are subject to time and location circumstances. There is a minimum charge of \$250 (each) for a Remote and may be subject to additional charges depending on Remote needs.

**STATION LIABILITY / DISCLAIMER:** In the event of station malfunction or transfer of ownership, the Station's liability for a refund of any actual amounts prepaid will be on a pro rata basis. The views and opinions of the Client /

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2001 North 3rd Street Suite 102 Phoenix, AZ 85004  
Phone: (602) 277-1100 Fax: (602) 248-1478 www.1100kfnx.com

Host expressed in the show are those of the Client / Host (and Guests / Callers, etc.) and not necessarily those of the KFNX Station, Management, and employees. Station is not liable for Client's representations and any lawsuits filed against Client.

**NO GUARANTEES:** No guarantees are warranted to the success of this or any show / ad campaign. Station will work to the best of its ability to assist Client in securing sponsorship. Station does not guarantee the success of such attempts by any party.

**SPONSORSHIP:** Client has the right to sell ads and / or sponsors on their own show. Client will refer leads to KFNX to sell on client's show. In the event of a sponsor being signed by Station for Client - Client receives from Client's sponsors on their show 100% of revenue up to cost of the show, then 50% (50 / 50 split with Station) of revenue above the cost of the show and 15% (agency fee) for any revenue that airs off their show.

**BONUSES:** Additional rebroadcasts of program and airing of bonus promos and commercials when time permits, but not guaranteed.

**AUTHORIZED PRE-EMPTIONS:** Station has established sports broadcast contracts with local and national networks and may pre-empt Client's show at times. Station will give Client advance notice to the best of its ability. In the event of a pre-emption, the show will be rebroadcast at another time during week subject to Client's approval or will be added to the end of the contract and the Client will not be charged for that week.

**ACTS OF GOD:** Station reserves right to cancel or reschedule in case of power or equipment failure beyond the Station's control or national, regional or local emergency. In the event of such failure, the show will be rebroadcast at another time during week subject to Client's approval or added to the end of the contract and the client will not be charged for that week. Website and Internet streaming is offered, but not entirely controlled by Station and any short term malfunction of such service shall not be grounds for reimbursement or credit.

**COMMUNITY STANDARDS:** Client will not use any indecent language on-air and will use good (and professional) judgment in discussing any types of questionable / controversial content. Client agrees that any violation of community standards or FCC laws may result in immediate termination of program with a pro-rated refund.

**ASSIGNMENT:** Both Station and Client may not assign this agreement without prior written permission from the other party.

**LEGAL VENUE:** Regardless of the place of execution the laws of the State of Arizona apply. Any action taken to enforce this agreement shall have jurisdiction in the City of Phoenix, Arizona.

**ENTIRE AGREEMENT:** This agreement constitutes the entire agreement between both parties. Both parties enter of their own freewill and have the right for an attorney to review this document. Any signatures via fax, email, mail, etc. are binding. No oral statements shall be binding.

Authorized by Station

Authorized By Client

Signature Francis Battaglia

Signature Alexander Meluskey

Name/Title Francis Battaglia/President

Name/Title Alexander Meluskey/Member

Date 05/22/2015

Date May 25 2015

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